

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 146

SENATE BILL 1039

AN ACT

AMENDING TITLE 13, CHAPTER 14, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-1424; AMENDING SECTION 13-3019, ARIZONA REVISED STATUTES; RELATING TO SURREPTITIOUS PHOTOGRAPHING, VIDEOTAPING, FILMING, DIGITALLY RECORDING OR VIEWING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 13, chapter 14, Arizona Revised Statutes, is amended
3 by adding section 13-1424, to read:

4 13-1424. Voyeurism; classification

5 A. IT IS UNLAWFUL TO KNOWINGLY INVADE THE PRIVACY OF ANOTHER PERSON
6 WITHOUT THE KNOWLEDGE OF THE OTHER PERSON FOR THE PURPOSE OF SEXUAL
7 STIMULATION.

8 B. IT IS UNLAWFUL FOR A PERSON TO DISCLOSE, DISPLAY, DISTRIBUTE OR
9 PUBLISH A PHOTOGRAPH, VIDEOTAPE, FILM OR DIGITAL RECORDING THAT IS MADE IN
10 VIOLATION OF SUBSECTION A OF THIS SECTION WITHOUT THE CONSENT OR KNOWLEDGE OF
11 THE PERSON DEPICTED.

12 C. FOR THE PURPOSES OF THIS SECTION, A PERSON'S PRIVACY IS INVADED IF
13 BOTH OF THE FOLLOWING APPLY:

14 1. THE PERSON HAS A REASONABLE EXPECTATION THAT THE PERSON WILL NOT BE
15 PHOTOGRAPHED, VIDEOTAPED, FILMED, DIGITALLY RECORDED OR OTHERWISE VIEWED OR
16 RECORDED.

17 2. THE PERSON IS PHOTOGRAPHED, VIDEOTAPED, FILMED, DIGITALLY RECORDED
18 OR OTHERWISE VIEWED, WITH OR WITHOUT A DEVICE, EITHER:

19 (a) WHILE THE PERSON IS IN A STATE OF UNDRESS OR PARTIAL DRESS.

20 (b) WHILE THE PERSON IS ENGAGED IN SEXUAL INTERCOURSE OR SEXUAL
21 CONTACT.

22 (c) WHILE THE PERSON IS URINATING OR DEFECATING.

23 (d) IN A MANNER THAT DIRECTLY OR INDIRECTLY CAPTURES OR ALLOWS THE
24 VIEWING OF THE PERSON'S GENITALIA, BUTTOCK OR FEMALE BREAST, WHETHER CLOTHED
25 OR UNCLOTHED, THAT IS NOT OTHERWISE VISIBLE TO THE PUBLIC.

26 D. THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

27 1. PHOTOGRAPHING, VIDEOTAPING, FILMING OR DIGITALLY RECORDING FOR
28 SECURITY PURPOSES IF NOTICE OF THE USE OF THE PHOTOGRAPHING, VIDEOTAPING,
29 FILMING OR DIGITAL RECORDING EQUIPMENT IS CLEARLY POSTED IN THE LOCATION AND
30 THE LOCATION IS ONE IN WHICH THE PERSON HAS A REASONABLE EXPECTATION OF
31 PRIVACY.

32 2. PHOTOGRAPHING, VIDEOTAPING, FILMING OR DIGITALLY RECORDING BY
33 CORRECTIONAL OFFICIALS FOR SECURITY REASONS OR IN CONNECTION WITH THE
34 INVESTIGATION OF ALLEGED MISCONDUCT OF PERSONS ON THE PREMISES OF A JAIL OR
35 PRISON.

36 3. PHOTOGRAPHING, VIDEOTAPING, FILMING OR DIGITALLY RECORDING BY LAW
37 ENFORCEMENT OFFICERS PURSUANT TO AN INVESTIGATION, WHICH IS OTHERWISE LAWFUL.

38 4. THE USE OF A CHILD MONITORING DEVICE AS DEFINED IN SECTION 13-3001.

39 E. A VIOLATION OF SUBSECTION A OR B OF THIS SECTION IS A CLASS 5
40 FELONY, EXCEPT THAT A VIOLATION OF SUBSECTION B OF THIS SECTION IS A CLASS 4
41 FELONY IF THE PERSON DEPICTED IS RECOGNIZABLE.

1 Sec. 2. Section 13-3019, Arizona Revised Statutes, is amended to read:
2 13-3019. Surreptitious photographing, videotaping, filming or
3 digitally recording or viewing; exemptions;
4 classification; definitions

5 A. It is unlawful for any person to knowingly photograph, videotape,
6 film, digitally record or by any other means ~~use a device to~~ secretly view or
7 record, WITH OR WITHOUT A DEVICE, another person without that person's
8 consent under ~~both~~ EITHER of the following circumstances:

9 1. In a restroom, bathroom, locker room, bedroom or other location
10 where the person has a reasonable expectation of privacy.—

11 ~~2. While~~ AND the person is urinating, defecating, dressing,
12 undressing, nude or involved in sexual intercourse or sexual contact.

13 2. IN A MANNER THAT DIRECTLY OR INDIRECTLY CAPTURES OR ALLOWS THE
14 VIEWING OF THE PERSON'S GENITALIA, BUTTOCK OR FEMALE BREAST, WHETHER CLOTHED
15 OR UNCLOTHED, THAT IS NOT OTHERWISE VISIBLE TO THE PUBLIC.

16 B. It is unlawful to disclose, display, distribute or publish a
17 photograph, videotape, film or digital recording made in violation of
18 subsection A of this section without the consent OR KNOWLEDGE of the person
19 depicted.

20 C. This section does not apply to:

21 1. Photographing, videotaping, filming or digitally recording for
22 security purposes where IF notice of the use of photographing, videotaping,
23 filming or digital recording equipment is clearly posted in the location AND
24 THE LOCATION IS ONE IN WHICH THE PERSON HAS A REASONABLE EXPECTATION OF
25 PRIVACY.

26 2. Photographing, videotaping, filming or digitally recording by
27 correctional officials for security reasons or in connection with the
28 investigation of alleged misconduct of persons on the premises of a jail or
29 prison.

30 3. Photographing, videotaping, filming or digitally recording by law
31 enforcement officers pursuant to an investigation, which is otherwise lawful.

32 4. The use of a child monitoring device as defined in section 13-3001.

33 D. A violation of subsection A or B of this section is a class 5
34 felony.

35 E. NOTWITHSTANDING SUBSECTION D OF THIS SECTION, A VIOLATION OF
36 SUBSECTION A OR B OF THIS SECTION THAT DOES NOT INVOLVE THE USE OF A DEVICE
37 IS A CLASS 6 FELONY, EXCEPT THAT A SECOND OR SUBSEQUENT VIOLATION OF
38 SUBSECTION A OR B OF THIS SECTION THAT DOES NOT INVOLVE THE USE OF A DEVICE
39 IS A CLASS 5 FELONY.

40 F. NOTWITHSTANDING SUBSECTION D OF THIS SECTION, A VIOLATION OF
41 SUBSECTION B OF THIS SECTION IS A CLASS 4 FELONY IF THE PERSON DEPICTED IS
42 RECOGNIZABLE.

43 E. G. For the purposes of this section, "sexual contact" and "sexual
44 intercourse" have the same meanings prescribed in section 13-1401.

APPROVED BY THE GOVERNOR APRIL 17, 2006.

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FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2006.